

COUNTY OF YORK

MEMORANDUM

DATE: November 20, 2003 (BOS Mtg. 12/2/03)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application No. ZT-79-03, York County Board of Supervisors – Cluster Development Building Spacing Requirements

The recent application for amendment of the Colony Pines Planned Development building spacing requirements (to allow 15-foot spacing rather than 20 feet) caused attention to be focused on both the *planned development* and *cluster development* requirements of the Zoning Ordinance. Currently, the Planned Development provisions in the Zoning Ordinance stipulate a 20-foot minimum building spacing, while the Cluster Development provisions allow the Building Code to control spacing and mandate special review by the Fire Chief for any spacing less than 20 feet. In accordance with these Cluster Development provisions, side-to-side building spacing in some recently developed cluster subdivisions has been reduced to 15 feet. The Fire Chief has expressed concern about this opportunity because of the greater risk that a fire could spread from one home to the next. This could pose firefighting challenges that can result in a significantly higher level of response resources (personnel and/or equipment) to effectively combat a fire at one or more of the residences. As a general observation, the Department of Fire and Life Safety has suggested that consideration be given to restoring the 20-foot spacing requirement that was formerly part of the basic cluster development provisions. Based on that suggestion, the Board sponsored this application for consideration.

Prior to the comprehensive Zoning Ordinance revisions in 1995, the minimum building spacing requirement in cluster subdivisions had been 20 feet (two 10-foot side yards), with no opportunity to place structures closer. A number of cluster subdivisions were successfully developed using this standard for side-to-side separation. Although we can find no specific documentation, staff recalls that the intended purpose of the revised spacing standard was to provide opportunities for “cluster” developments using something other than conventional subdivision design (e.g., perhaps a comprehensively designed development with homes arranged similar to those in Chischiak Watch). Also, at the request of the development community, the standard was written as a “spacing” requirement rather than the 10-foot/10-foot side yard requirement to allow zero-lot-line arrangements and to allow significant trees to be preserved. Having the advantage of hindsight, we can now make the following observations:

- The market for standard subdivision designs has remained strong and the tendency of developers/designers has been to continue to use the “cluster” provisions to provide a standard-looking subdivision design, with lots diminishing in size and lot coverage ratios increasing to the limits of the allowable building envelope;

- The de-facto standard for side-to-side building spacing in these “standard-design” cluster subdivisions has become 15-feet, even though the “standard” in all other residential districts in the Zoning Ordinance is at least 20 feet (including in the Planned Development Districts).
- The 15-foot “standard” is employed without any special attention to design innovation, which, as noted above, was one of the reasons for providing the flexibility in the 1995 amendments. As building spacing becomes closer, design coordination with structures on adjoining lots becomes more critical. Such coordination is impossible when development is occurring under a “conventional” subdivision technique where lots are created and marketed to individuals (builders or individual buyers), and coordination opportunities for garage locations, window placements, privacy, etc. are lost.
- Zero-lot-line arrangements have not been proposed and “spacing” standards vs. side yard standards do not seem to have had any impact on the attention given to tree preservation on the lots.
- The spacing standard has proven to be more difficult to administer and enforce than a standard side yard dimension. Effective and equitable administration of a “spacing” vs. absolute yard dimension requirement necessitates cooperation and coordination among adjoining lot owners and the County on an on-going basis. It also opens the door for future conflict and disagreement. For example, if the minimum required spacing is 15 feet and the actual spacing provided happens to be 25 feet, which of the two adjoining lot owners “owns” the right to enlarge their home by ten feet? Although the distinction between a “spacing” standard and an “absolute yard dimension” was not cited in the version of the amendments sponsored by the Board, staff and the Planning Commission believe that a return to the 10-foot/10-foot standard for side yards and the 20-foot standard for rear yards would be helpful in administering and enforcing the cluster provisions. The version of the amendments recommended by the Planning Commission includes this proposal.
- The Planned Development provisions of the Zoning Ordinance provide the most effective opportunities for developers to implement and the Board of Supervisors to influence innovative design. The Planned Development provisions of the Zoning Ordinance establish 20 feet as the starting point for building spacing, but provide the opportunity for the Board to approve something less (or greater) in the course of the review and approval of the project. The review and approval process involves the submission of conceptual plans and even architectural renderings, so there is ample opportunity for consideration of design and building relationship issues (and any special fire safety issues associated with closer spacing). For those developers interested in design factors other than maximum development yield, the planned development regulations will continue to provide appropriate opportunities and flexibility.

Planning Commission Recommendation

This application was advertised for public hearing in the Daily Press on October 28 and November 4, and notice was posted on the County's website as well as Cable Channel 46. The Planning Commission considered the application at its November 12, 2003, meeting. During the public hearing there were no speakers, and the Commission voted 6:0 to recommend approval of the amendments contained in proposed Ordinance No. 03-43.

County Administrator Recommendation

In consideration of these observations, and in support of the concerns cited by the Department of Fire and Life Safety, I believe that the cluster development building spacing standard should be revised to require a minimum of 20 feet with no opportunity for reduction. Furthermore, I support the Planning Commission's recommendation that this standard be in the form of a requirement for minimum 10-foot side yards on the adjoining lots and 20-foot rear yards.

It should be noted that these proposed amendments would not change the requirements for any cluster development that has already received Preliminary Plan approval. Section 24.1-805(d) of the Zoning Ordinance provides that when Preliminary Plan approval has been secured and the development proceeds in accordance with the time limits prescribed by the Subdivision Ordinance, the previously existing dimensional requirements (i.e., the 15-foot spacing requirement) may be observed.

Based on the considerations and conclusions noted above, and in support of the Planning Commission's recommendation, I recommend adoption of proposed Ordinance No. 03-43.

Carter/3337:jmc

Attachment: Resolution No. R03-165 (Board sponsorship)
Excerpts of Planning Commission Minutes – November 12, 2003 meeting
Proposed Ordinance No. 03-43